

Orig

Miles Julison
 10605 SE 240th St.
 Kent, WA 98031
 503.807.1447

FILED 22 FEB '12 13:54 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

U.S. BANK NATIONAL ASSOCIATION, AS
 TRUSTEE FOR THE HOLDERS OF BEAR
 STEARNS ALT-A TRUST 2006-3, MORTGAGE
 PASS-THROUGH CERTIFICATES, SERIES 2006-3

Plaintiff,

v.

Zandy Butler, Charity M. Butler, and all Occupants of
 10387 Southeast Crescent Ridge Drive
 Portland, OR 97266
 Defendants.

CV '12 - 0314 - AC

Case No.

NOTICE OF REMOVAL

To: The Honorable Judges and Clerk of the United States
 District Court for the District of Oregon

Miles Julison (one of the "All Occupants") moves that the above-entitled cause commenced in the Circuit Court of the State of Oregon for the County of Clackamas, against the named defendants, be removed to this Court, and in support thereof states:

1. Upon information and belief, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF BEAR STEARNS ALT-A TRUST 2006-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-3 does not exist.

2. On or about Feb 13, 2012, an attorney filed Complaint No. FE120217 in the Circuit Court of the State of Oregon for the County of Clackamas, in the name of "U.S. BANK

NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF BEAR STEARNS ALT-A TRUST 2006-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-3.” This action was an EVICTION COMPLAINT, currently scheduled for appearance on February 24, 2012.

3. Pursuant to 28 U.S.C. § 1446, this notice of removal is timely filed within thirty days after the receipt by Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which this action or proceeding is based. Defendant received the copy on or about Feb 14, 2012.

4. All Defendants consent to this Removal action.

5. Defendants have taken no action in the Circuit Court of the State of Oregon for the County of Clackamas that would prejudice their right to removal.

6. The United States District Court has original jurisdiction over this case under 28 U.S.C. § 1332(a) in that the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs and the action is between citizens of different States. The face of the Summons and Complaint shows the Plaintiff’s name as U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF BEAR STEARNS ALT-A TRUST 2006-3, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-3. The Summons and Complaint shows Plaintiff’s mailing address “c/o” the address of its attorney, Routh Crabtree Olson, at 13555 SE 36th St, Suite 300, Seattle, WA 98006, however the true address of U.S. BANK NATIONAL ASSOCIATION headquarters is US Bank's headquarters are at 425 Walnut Street, Cincinnati, Ohio, 45202. The parent company of U.S. Bank, U.S. Bancorp, is a diversified financial services holding company, headquartered in Minneapolis, Minnesota. Defendants therefore allege, until further information is available, that Plaintiff is a citizen of either Ohio or Minnesota.

7. Defendants are citizens of Washington, domiciled at 10605 SE 240th Street, Kent, Washington. Defendants are also in possession of the subject property at 10387 Southeast Crescent Ridge Drive, Portland, Oregon.

8. The amount in controversy, while not alleged in the Complaint, is the value of possession of a residential dwelling, which can be calculated as the sum total of rental payments for a comparable property from unspecified the time of the “foreclosure sale” until the end of the economic life of the asset, discounted at an appropriate discount rate to arrive at the “present value.” The value of the property is never alleged, but comparable home values and rental rates are a matter of public record, and under any reasonable assumptions, that amount exceeds \$75,000. See any accounting textbook under “capital lease.”

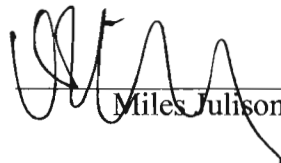
9. A Forcible Entry case seeks an award of possession, and possession has a market value, measured in dollars per month – that’s what the rental market is. A rental rate is no more or less than a reduction of the value of possession to a monetary sum, per month. The value of a stream of income, per month, can be equated to a monetary lump sum – that’s what discount rates are for. There is no logical reason why the resulting sum cannot be used “for purposes of determining the amount in controversy.” FED actions typically do not attract high-priced attorneys, and if contested at all, typically are defended without an attorney; perhaps this is the reason why there is so little case law on this subject.

10. This action may be removed to this Court by the Defendant, pursuant to the provisions of 28 U.S.C. § 1441(b),(c) and according to the procedure in 28 U.S.C. § 1446.

Promptly after filing this notice of removal, the Defendant will serve a copy upon Plaintiff and will file a copy with the clerk of the Circuit Court of the State of Oregon for the County of Clackamas.

WHEREFORE, Defendants remove the above entitled action now pending in the Circuit Court of the State of Oregon for the County of Clackamas, State of Oregon to the United States District Court for the District of Oregon.

DATED this 22 day of February, 2012.


Miles Julison

CERTIFICATE OF SERVICE

I, the undersigned, being over eighteen years of age, hereby certify that on the date last written below, a true and correct copy of the foregoing was served via First Class U.S. Mail and/or fax on the following parties:

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF
BEAR STEARNS ALT-A TRUST 2006-3, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-3**

c/o Janaya L. Carter, Brian Cox

Routh Crabtree Olson

13555 SE 36th St., Suite 300

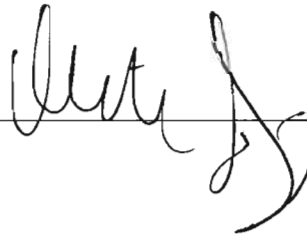
Bellevue, WA 98006

by:

☒ X United States Postal Service, ordinary first class mail
☐ United States Postal Service, certified or registered mail, return receipt req.
☐ Hand delivery
☒ X FAX Number: 425-458-2131

February 22, 2012

/s/



IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

No. **FE120217**
SUMMONS

PLAINTIFF (Plaintiff or Agent):
U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE HOLDERS OF BEAR
STEARNS ALT-A TRUST 2006-3,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-3
Address: c/o 13555 SE 36th St., Suite 300
City: Bellevue
State: WA Zip: 98006
Telephone: 425-458-2121

v.

DEFENDANT (Tenant/ Occupant):
Zandy Butler, Charity M. Butler, and all
Occupants of
Address: 10387 Southeast Crescent Ridge
Drive
City: Portland
State: OR Zip: 97266

TO: 10387 Southeast Crescent Ridge Drive, Portland, OR 97266 Street address and city of property occupied by defendant)
Same as above (Mailing address if different)

NOTICE TO TENANTS:
READ THESE PAPERS CAREFULLY
YOUR PLAINTIFF WANTS TO EVICT YOU

ON February 24th, 2012 AT 8:30 A.M., you must come to the County Court House located at:
Clackamas County Courthouse 807 Main St. Rm. 200, Oregon City, OR 97045

You do not have to pay any fees to the court for this first hearing.

- If you do not appear in court and the plaintiff does, the plaintiff will win automatically and can have the Sheriff physically remove you.
- If you do show up in court and the plaintiff does not, this eviction action will be dropped.
- If both of you show up:
 - The judge may ask you to try to reach an agreement with the plaintiff, this is voluntary. Trained mediators may be available free of charge to help resolve disputes.
 - The court will schedule a trial if you and the plaintiff do not reach an agreement or if you do not agree to move out.

IF YOU WANT A TRIAL, YOU MUST:

- Show up in court at the time scheduled above;
- On the same day, file an Answer with the Court giving a legal reason why you should not be evicted (the Court can give you a form);
- Give a copy of the Answer to the plaintiff (or your plaintiff's attorney); and
- Pay a filing fee of \$ 75 (the judge may allow payment to be deferred in certain circumstances).

IF YOU HAVE QUESTIONS, YOU SHOULD SEE AN ATTORNEY IMMEDIATELY. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

 , Signature of Plaintiff (plaintiff or agent)
Jangra L. Carter, OSB#032830

13555 SE 36th St., Suite 300, Bellevue, WA 98006
425-586-1991

I certify that this is a true copy of the original summons:

 , Signature of Plaintiff (plaintiff or agent)
Brian Cox, OSB # 902405

NOTICE TO DEFENDANTS

Pursuant to Oregon Revised Statutes (ORS), ORS 105.135(5), the following notice is given as set forth in ORS 105.137:

Effect of failure of party to appear; appearance by attorney; scheduling of trial; unrepresented defendant. In the case of a dwelling unit to which ORS chapter 90 applies:

1. If the plaintiff appears and the defendant fails to appear at the first appearance, a default judgment shall be entered against the defendant in favor of the plaintiff for possession of the premises and costs and disbursements.
2. If the defendant appears and the plaintiff fails to appear at the first appearance, a default judgment shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding costs and disbursements.
3. An attorney at law shall be entitled to appear on behalf of any party, but attorney fees may not be awarded to the plaintiff if the defendant does not contest the action.
4. The plaintiff or an agent of the plaintiff may obtain a continuance of the action for as long as the plaintiff or the agent of the plaintiff deems necessary to obtain the services of an attorney at law.
5. If both parties appear in court on the date contained in the summons, the court shall set the matter for trial as soon as practicable, unless the court is advised by the parties that the matter has been settled. The trial shall be scheduled no later than 15 days from the date of such appearance. If the matter is not tried within the 15-day period, and the delay in trial is not attributable to the landlord, the court shall order the defendant to pay rent that is accruing into court, provided the court finds after hearing that entry of such an order is just and equitable.
- 6.a. The court shall permit an unrepresented defendant to proceed to trial by directing the defendant to file an answer in writing on a form which shall be available from the court clerk, and to serve a copy upon the plaintiff on the same day as first appearance.
- 6.b. The answer shall be in substantially the same format as local form CP-FED-05-(05/28/08), CP-FED-08-(01/20/05) and CP-FED-19-(02/26/10).
7. If an unrepresented defendant files an answer as provided in subsection (6) of this section, the answer shall not limit the defenses available to the defendant at trial under ORS chapter 90. If such a defendant seeks to assert at trial a defense not fairly raised by the answer, the plaintiff shall be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

Additional Instruction

- Where:** An answer may be obtained and filed at the Clackamas County Courthouse, Civil Case Unit in Room 104, 807 Main Street, Oregon City, OR 97045.
- Fee Deferral:** If you are in need of a filing fee deferral you must be at the Clackamas County Courthouse, Room 104, Cashier Counter prior to **11:30 a.m.** so you can complete the paperwork and see a judge who will consider your request. Contact the Collection Clerk for required paperwork at (503) 655-8453.
- Hours:** The courthouse is open from 8:00 a.m. to 5:00 p.m. The Civil Case Unit will be open from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. You should arrive no later than **3:00 p.m.** to allow time for processing. If requesting a fee deferral, arrive no later than **11:30 a.m.** (See Fee Deferral above).
- Fee:** The filing fee for an answer is \$75.00 (residential) and \$240.00 (commercial).

If you have any questions regarding court procedure, please call the Civil Case Unit at 503-655-8447.

The clerks cannot give you legal advice. You should contact an attorney if you have a legal question.

CP-FED-04-(09/26/11)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

No. 2012-041

EVICITION COMPLAINT
(Tenancy not covered by ORS chapter 90)

PLAINTIFF:

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE HOLDERS OF BEAR
STEARNS ALT-A TRUST 2006-3,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-3
Address: c/o 13555 SE 36th St., Suite 300
City: Bellevue
State: WA Zip: 98006
Telephone: 425-458-2121

DEFENDANT:

Zandy Butler, Charity M. Butler, and all Occupants of
v. Address: 10387 Southeast Crescent Ridge Drive
City: Portland
State: OR Zip: 97266

1. Defendants are in possession of the following premises

10387 Southeast Crescent Ridge Drive, Portland, OR 97266

2. Defendants entered upon the premises with force or is unlawfully holding the premises with force.

Plaintiff is entitled to possession of the premises, because:

☐ 30-day notice (month-to-month tenancy)

☐ 30-day notice with stated cause.

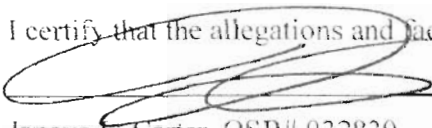
☒ Notice to bona fide tenants after foreclosure sale or termination of fixed term tenancy after foreclosure sale.
ORS 86.755 (6) (c).

☐ Notice to bona fide tenants after foreclosure sale or termination of fixed term tenancy after foreclosure sale.
ORS 86.755 (6) (c) and 90 day notice pursuant to Public Law 111-22 (2009 Foreclosure Act). Occupants are
believed to be tenants of Zandy Butler and Charity Butler.

A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

3. Wherefore, Plaintiff prays for possession of the premises, costs and disbursements, if applicable.

I certify that the allegations and factual assertions in this complaint are true to the best of my knowledge.


Janaya L. Carter, OSB# 032830

13555 SE 36th St., Suite 300

Bellevue, WA 98006

425-586-1991

Signature of plaintiff or agent

Address

City, State, Zip

Telephone